

## **TITLE 19. PUBLIC SAFETY**

### **DIVISION 2. OFFICE OF EMERGENCY SERVICES**

#### **CHAPTER 4. HAZARDOUS MATERIAL RELEASE REPORTING, INVENTORY AND RESPONSE PLANS**

##### **NOTICE OF PROPOSED AMENDMENT OF REGULATIONS FOR AREA PLANS UNDER THE PESTICIDE DRIFT EXPOSURE ACT.**

**NOTICE IS HEREBY GIVEN** that the Governor's Office of Emergency Services proposes to amend its regulations, establishing the requirement that pesticide drift exposure protocols be incorporated into area plans by administering agencies (usually Certified Unified Program Agencies or CUPAs). The regulations to be amended are entitled "Minimum Standards for Area Plans" and are found in California Code of Regulations, Title 19, Division 2, Chapter 4, Article 3, commencing with Section 2720. Additionally, a definition of "pesticide drift exposure incident" will be added to Article 1, as new Section 2660. The amendments are indicated by strikeout and underline in the proposed text of regulations, and are available online or on request from the agency official designated in this notice. Beginning on August 24, 2007, any interested person, or his or her authorized representative, may present statements, arguments or comments by mail or fax to the contact person listed below, or by e-mail to 391Comments@oes.ca.gov. These comments will be received until 5 p.m. on October 12, 2007. The Office will hold a public hearing starting at 2 p.m. Tuesday, October 9, 2007 at the Agricultural Auditorium, Tulare County Agricultural Building, 4437 S. Laspina St, Tulare, CA 93274. At the hearing, any person may present statements or arguments, orally or in writing about the proposed action described in the informative digest. It is requested that persons making oral comments at the hearing submit a written copy of their testimony.

#### **AUTHORITY AND REFERENCE**

These regulations were initially authorized by Health and Safety Code Section 25503. The regulations establish minimum standards for area plans. The proposed amendments are authorized by Food and Agricultural Code Section 12997.7, a new statute created in 2004 by Senate Bill 391. This latter statute requires incorporation of pesticide drift exposure protocols into area plans upon the next scheduled revision of the area plan. The proposed amendments clarify how the new protocols will be integrated into the area plan.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

The pesticide drift exposure bill (SB 391) was introduced in response to a number of pesticide drift exposure incidents in California that affected residential communities.

These incidents resulted in illness and hospitalizations, at great expense to the affected population, local governments, and the state government. Pesticides are unique toxic substances, in that their proper usage requires their release into the environment. Existing statute (Food and Agricultural Code, Section 12972), requires pesticide handlers to apply the product in such a manner as to prevent drift of the pesticide to non-target areas. However, pesticide drift into unintended areas is not uncommon, due to unintentional overspray, unexpected winds, accidental release, or negligence.

Six protocols were mandated for inclusion into the area plan, for the purpose of aiding first responders to pesticide drift exposure incidents better identify the chemical of concern and to better respond to the health and safety needs of the affected population. The protocols are to be developed by the California Environmental Protection Agency, in consultation with the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, the Office of Emergency Services, and representatives of the California County Agricultural Commissioners. A series of public meetings have been held.

The six protocols to be incorporated into the area plan are: 1) provide access to pesticide-specific information to assist emergency medical services personnel; 2) define agency responsibilities; 3) develop emergency shelter and evacuation procedures; 4) provide information and services in all languages known to be spoken in the affected area; 5) ensure access to health care; and 6) provide notification to medical providers of eligibility for reimbursement.

## DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on Local Agencies: Requiring local agencies to amend the area plan for response to pesticide drift exposure incidents is an imposition of a state mandate. Section 25513 of Article 1 of Chapter 6.95 of Division 20 of the Health and Safety Code allows local agencies to collect fees to offset costs incurred while administering Article 1, which includes establishing and maintaining area plans.

Cost to Local Agencies Reimbursable Under Government Code, Part 7, Division 4: If the Commission on State Mandates determines that this action contains other costs mandated by the state, reimbursement to local agencies for these costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000) reimbursement shall be made from the State Mandates Claims Fund.

Other Nondiscretionary Cost or Savings Imposed on Local Agencies: The initial determination is that there are none.

Cost or Savings to Any State Agency: The initial determination is that there are none.

Cost or Savings In Federal Funding To The State: None.

Significant Effects on Housing Costs: None.

Significant Statewide Adverse Economic Impact Directly Affecting Business Including the Ability of California Businesses to Compete With Businesses in Other States: The initial determination is that there is none.

Cost Impacts on a Representative Private Person or Business: The Office of Emergency Services is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Small Business Determination: The proposed action requires additions to planning documents prepared by local governments only. Therefore, the initial determination is that the proposed action has no effect on small business.

Assessment Regarding the Creation or Elimination of Jobs in California: The initial determination is that the adoption of these amended regulations will not: 1) create or eliminate jobs within California; 2) create new businesses or eliminate existing businesses in California; or 3) affect the expansion of businesses currently doing business within California.

## CONSIDERATION OF ALTERNATIVES

The proposed amended regulations are a direct mandate of the Legislature, as signed by the governor, and chaptered in the Food and Agricultural Code. However, in accordance with Section 11346.5 of the Government Code, the Office must determine that no alternative it considered would be more effective in carrying out the mandate of the Legislature than the proposed amendments. The Office invites interested persons to present statements or arguments with respect to alternatives to the proposed action during the written comment period.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED AMENDED REGULATIONS

The Office of Emergency Services has prepared an Initial Statement of Reasons for the proposed amendments. Copies of the exact language of the proposed amended regulations and the Statement of Reasons, and other information, if applicable, may be obtained from the Office upon request from the contact person listed below, or may be accessed on the OES Website. The entire rulemaking file is available for inspection and copying at the Office of Emergency Services. Requests for inspection of the entire rulemaking file should be directed to the contact person listed below.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, the Office of Emergency Services may adopt the proposed regulations if they remain substantially the same as described in this notice. The Office of Emergency Services may make changes in the proposed regulations before adopting them. The text of any modified regulations will be made available to the public with the changes clearly marked at least fifteen (15) days before the Office adopts the regulations as revised. The modified text can be requested from the contact person listed below, or may be accessed on the OES Website. The Office will accept comments on the modified regulations for 15 days after the date on which the text is made available.

## AVAILABILITY OF THE FINAL STATEMENT OF REASONS

The Office will prepare a Final Statement of Reasons when all comments have been received and considered, prior to closing the rulemaking record. The statement may be requested from the contact person listed below, or may be accessed on the OES Website.

#### CONTACT PERSON FOR FURTHER INFORMATION

Anyone wishing further information about the proposed amended regulations, the Initial Statement of Reasons, or the full text of the regulation language proposed to be adopted, may contact Jack Harrah in the Hazardous Materials Unit, Office of Emergency Services, 3650 Schriever Ave, Mather, CA 95655; by fax, Attention: Jack Harrah at (916) 845-8734; or by telephone at (916) 845-8759.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, the text of the proposed amendments in underline and strikeout format, and the Final Statement of Reasons can be accessed through the Office of Emergency Service's Hazardous Materials Web page at: <http://www.oes.ca.gov/>.